IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8092 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRAFULKUMAR T GAUR

Versus

DISTRICT MAGISTRATE

Appearance:

MR AR THACKER for Petitioner

NOTICE SERVED for Respondent No. 1

MR RC KODEKAR, AGP for Respondent No. 2

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 18/02/2000

ORAL JUDGEMENT

The petitioner has preferred this petition under Article 226 of the Constitution of India for following reliefs :-

"9(A) To issue a Writ of Certiorary and/or a Writ, Order or Direction in the nature of Certiorary, quashing and setting aside the order passed by the respondent no.1 (Annex.B) dated 12th November, 1987, the order passed by respondent no.2 (Annex.D) dated 21st January, 1988 and the order passed by the respondent no.2 (Annex.F) dated 3rd March,1988 and allow this petition with costs.

(B) To direct the respondents to decide the application of the petitioner for Video Licence in accordance with law as expeditiously as possible. "

According to the petitioner, he had applied to Respondent No.1 to run a Video House vide application dated 10.11.1986 under the provisions of Gujarat Cinema (Regulations of Exhibition by Video) Rules, 1984 (hereinafter referred to as the Rules), but the authority, namely, the District Magistrate of District Kutch at Bhuj, rejected the said application vide order dated 12.11.1987 mainly on two grounds, viz. (i) police report is not in favour of the petitioner, and (ii) there are no adequate sanitation facilities. The order passed by the District Magistrate was challenged by filing appeal under Rule 24 of the Rules before respondent no.2 Appellate Authority. Respondent no.2 rejected said appeal vide order dated 21.1.1988. It is the grievance of the petitioner that without considering the basic aspects involved in the matter, respondent no.2 rejected the said appeal. It was brought to the notice of of respondent no.2 that adequate sanitation facilities were made available in the hall by new erection. Mr. Thakkar, learned counsel appearing for the petitioner has submitted that, at that point of time, appellate authority should have remanded the matter to the District Magistrate. Instead of doing so, the appellate authority inserted an additional ground for rejection of the appeal without giving an opportunity of being heard and to explain the contingencies reflected in the map produced by the petitioner. So, with a view to get justice, the petitioner had applied again to the appellate authority for reviewing earlier order passed on 21.1.1988. Said Review Application was based in the light of the provisions of Rule 13 of the Rules, but the said Review Application was rejected. Hence, the present petition.

After going through the averments made in the petition and the fact that the petitioner had prayed for a Video Licence to exhibit cinema through video by displaying it through a screen of 21" width and

considering the advanced technology and other developments in the country including the rural area, there is ample scope for the petitioner to use a larger screen and also to put more number of chairs, sitting facilities in that very hall which is undisputedly large having capacity to accommodate 60 persons at a time. Under the changed circumstances, the petitioner may get a favourable report from police authorities also. Learned AGP Mr. Kodekar has rightly submitted that by showing changed circumstances, the petitioner should apply to the District Magistrate de novo and District Magistrate should be directed that in the event of filing of fresh application by the petitioner, the same should be considered in light of the provisions made in the Rules and other relevant provisions including the directions issued by the State Government in this regard. Learned counsel Mr. Thakkar appearing for the petitioner has fairly submitted that his client i.e. the present petitioner will approach the District Magistrate afresh and will brought to his notice the developments and this matter be disposed of accordingly.

In view of above facts and circumstances, without passing formal order, this petition is disposed of with a direction that in the event of petitioner submitting fresh application for getting licence to the District Magistrate, the same shall be considered in accordance with law and as expeditiously as possible.

Rule is discharged subject to aforesaid directions. No costs.

18.2.2000 [C.K. BUCH, J]

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